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STATE OF CONNECTICUT
DEPARTMENT OF REVENUE SERVICES

PS 2003(2)

POLICY STATEMENT

**Sales and Use Taxes on Internet Access Services and
On-Line Sales of Goods and Services**

Purpose: This Policy Statement describes Internet access services, sales and purchases of taxable services and tangible personal property by means of computers, and the sales and use tax obligations of retailers that do business by means of computers. It also describes legislative changes after **Policy Statement 98(2)**, *Sales and Use Taxes on Access to the Internet and Other On-Line Sales of Goods and Services*, was issued that clarify the definitions of computer and data processing services. Finally, the Policy Statement describes the reduced rates and final phaseout of tax on Internet access services.

Effective Date: This Policy Statement is applicable to all open tax periods, except that the exclusion of web site services and the reduced rates of tax on Internet access services and other computer and data processing services are effective as indicated in this publication. Internet access services are not taxable on or after July 1, 2001.

Statutory Authority:

Conn. Gen. Stat. §§12-407(a)(2)(A); 12-407(a)(2)(I); 12-407(a)(37)(A); 12-408(1)(C); and 12-411(1)(D); and Conn. Agencies Regs. §12-426-27(b)(1).

Definitions: As used in this Policy Statement:

- *Internet access services* means providing customers with the ability to access any portion of the Internet or the World Wide Web (whether or not the customers actually obtain access), including any technical support provided with the services, such as telephone user support or consulting. Internet access service charges are usually made on a monthly or other periodic basis and may also include initial one-time setup charges. Internet access services do not

include charges customers incur after they have accessed the Internet, such as charges for access to restricted web sites, downloading information, purchasing software, or purchasing any other goods or services.

- A *Connecticut retailer* is a retailer having any physical presence in Connecticut, including, generally, owning or leasing real or tangible personal property in Connecticut, maintaining an office in Connecticut, or having agents or employees present in Connecticut to perform any services for or on behalf of the seller either before or after a sale. Arrangements for the dedicated use of telecommunications lines or maintaining web sites in Connecticut do not, by themselves, constitute owning or leasing property in Connecticut for purposes of this definition.
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Charges for Internet Access Services: Retailers that provide customers with Internet access services are providing computer and data processing services enumerated in Conn. Gen. Stat. §12-407(a)(37)(A). Internet access services are part of the broad category of “providing access to information,” as that term is used in the definition of computer and data processing services in Conn. Agencies Regs. §12-426-27(b)(1).

Internet access services are no longer subject to tax as of July 1, 2001. However, other aspects of providing access to information remain subject to tax. (See the definition of Internet access services above.) The General Assembly began to phase out the tax on computer and data processing services in 1997. The tax rate on Internet access services was reduced from 2% to 0% on July 1, 2001. The tax on other computer and data processing services was reduced from 2% to 1% on that date. All computer and data processing services will be nontaxable on or after July 1, 2004. (See the tax rate reduction schedules on Page 3.)

A Connecticut retailer that sold Internet access services prior to July 1, 2001, to purchasers who received the benefit of the services in Connecticut was responsible for charging, collecting, and remitting sales tax (if the services were sold from within Connecticut) or use tax (if the services were sold from outside Connecticut) to the Department of Revenue Services (DRS) at the applicable rate.

Where the Benefit of Internet Access Services Is Received: The benefit of Internet access services is received in Connecticut if the purchaser's computer terminal to which the services are rendered is located in Connecticut. In the case of mobile computer equipment, the benefit of the services is received in Connecticut if the home base of the mobile computer is located in Connecticut.

If the benefit of the services was received in Connecticut, a purchaser of Internet access services prior to July 1, 2001, is liable for use tax on the purchase of those services at the applicable rate. (See the tax rate reduction schedules on Page 3.) If the retailer of the Internet access services did not charge and collect Connecticut sales or use tax, the purchaser must self-assess the use tax. The purchaser is responsible for determining if the service provider charged tax, and if not, for paying the tax directly to DRS.

Self-Assessment of Use Tax by the Purchaser of Internet Access Services: Individuals who purchased Internet access services for personal use and not for use in carrying on a trade, business, profession, or occupation, where the retailer did not charge tax, must remit the use tax to DRS annually for purchases made during the previous calendar year. They report and remit the use tax when filing their Connecticut income tax returns (**Form CT-1040, CT-1040EZ, CT-1040NR/PY, or TeleFile**), or by filing **Form OP-186, Connecticut Individual Use Tax Return**, on or before April 15 following the calendar year during which the purchases were made.

Purchasers carrying on a trade, business, profession, or occupation must include amounts paid for Internet access services on which tax was not charged by the seller as purchases subject to use tax on their monthly, quarterly, or annual **Form OS-114, Sales and Use Tax Return**. (See the tax rate reduction schedules on Page 3.)

On-Line Purchases of Tangible Personal Property: A Connecticut retailer that accepts orders for tangible personal property by computer and ships or delivers the items to Connecticut addresses must charge and collect Connecticut sales or use tax on the sales. Examples are items such as books, canned or prewritten computer software, computer hardware and equipment, or any other goods not specifically exempt from sales and use taxes.

A purchaser of taxable tangible personal property on which the retailer charges no tax must self-assess and remit use tax at the rate of 6% on the purchases. The amount on which tax is calculated includes shipping and handling charges. The tax on tangible personal property sold over the Internet was not phased out and remains in full effect.

Electronically Delivered Software: When a purchaser downloads software and there is a charge for downloading the software, but the retailer provides no tangible personal property to the purchaser and delivers the software electronically, the charge is for computer and data processing services and not for the sale of tangible personal property. (The sale is *not* a sale of Internet access services, however.) Likewise, when a retailer installs software for a purchaser, but leaves no tangible personal property for the purchaser after the installation, the charge is for computer and data processing services and not for the sale of tangible personal property.

A Connecticut retailer of downloaded software is a retailer of computer and data processing services and must register, collect, and remit sales or use tax on the sales at the current rate for computer and data processing services. (See the tax rate reduction schedules on Page 3.) Purchasers of downloaded software on which the retailer does not charge tax must self-assess and remit use tax on the purchases. (See *Self-Assessment of Use Tax by the Purchaser of Internet Access Services*.)

Creation and Maintenance of Web Sites: Under Conn. Gen. Stat. §12-407(a)(37)(A), taxable computer and data processing services do not include:

services rendered in connection with the creation, development, hosting or maintenance of all or part of a web site which is part of the graphical, hypertext portion of the Internet, commonly referred to as the World Wide Web.

This exclusion applies to all computer and data processing services (such as programming, data entry, scanning, computerized graphic design, software installation, software maintenance, and hosting fees), when the services are provided to a service recipient in connection with the service recipient's Internet web site. The exclusion does not apply to charges for access to web sites maintained by others.

The sale of prewritten software necessary to create a web site is taxable at the rate of 6% when tangible personal property is provided to the purchaser by the retailer, but is excluded from tax when no tangible personal property is provided to the purchaser by the retailer and the software is delivered electronically.

Web Site Providers May Be Agents for Sellers:

Companies that maintain web sites for retailers of tangible personal property may sometimes perform other services for the retailers, such as billing the retailers' customers, collecting payments from the customers, or otherwise acting as agents for the sellers in connection with sales.

A retailer of tangible personal property is not a Connecticut retailer, as defined in this Policy Statement, merely because the company that maintains its web site is physically located in Connecticut. However, if a company that maintains a web site for an out-of-state retailer of tangible personal property performs services for the retailer in addition to maintaining the retailer's web site, such as billing or collecting and remitting payments for the seller, and the company does so from a physical location in Connecticut, the retailer of tangible personal property is a Connecticut retailer by virtue of having an agent located in Connecticut performing services in connection with its sales. A Connecticut retailer must collect and remit use tax on its sales of tangible personal property to persons located in Connecticut.

A company located outside Connecticut that maintains a web site for a Connecticut retailer may sometimes perform services for the retailer in addition to maintaining the retailer's web site, such as billing or collecting and remitting payments for the retailer from a physical location outside Connecticut. A web site provider physically located outside Connecticut is not a Connecticut retailer merely because it performs these services for a Connecticut customer.

Promotional Items: A Connecticut retailer that sends promotional items of tangible personal property, such as computer software or printed material, free of charge to Connecticut addressees is using or consuming those items in Connecticut, and is subject to Connecticut use tax at the rate of 6%, and must pay the use tax to DRS based on the amount the retailer paid for the items it gives away.

Tax Rate Reduction for Internet Access

Services: Beginning July 1, 1997, the sales and use tax rate for Internet access services was reduced in annual increments and phased out. Internet access services are not taxable on or after July 1, 2001.

Sales of Services Occurring On or after	Through	Rate
July 1, 1997	June 30, 1998	5%
July 1, 1998	June 30, 1999	4%
July 1, 1999	June 30, 2000	3%
July 1, 2000	June 30, 2001	2%
July 1, 2001		0%

Tax Rate Reduction Schedule for All Other

Computer and Data Processing Services: The sales and use tax rate for all computer and data processing services **other than** Internet access services is being reduced in annual increments and phased out as follows:

Sales of Services Occurring On or after	Through	Rate
July 1, 1997	June 30, 1998	5%
July 1, 1998	June 30, 1999	4%
July 1, 1999	June 30, 2000	3%
July 1, 2000	June 30, 2001	2%
July 1, 2001	June 30, 2004	1%
July 1, 2004		0%

See **Form O-88, Instructions for Completing Form OS-114**, Line 74 instructions, for information about reporting sales of computer and data processing services.

Effect on Other Documents: This Policy Statement modifies and supersedes **Policy Statement 98(2)**, *Sales and Use Taxes on Access to the Internet and Other On-Line Sales of Goods and Services*.

Effect of This Document: A Policy Statement is a document issued by DRS that explains in depth a current position, policy, or practice affecting the tax liability of taxpayers.

For Further Information: Please call DRS during business hours Monday through Friday:

- **1-800-382-9463** (in-state), or
- **860-297-5962** (from anywhere)

TTY, TDD, and Text Telephone users only may transmit inquiries 24 hours a day by calling 860-297-4911.

Forms and Publications: Forms and publications are available all day, seven days a week:

- **Internet:** Preview and download forms and publications from the DRS Web site: **www.drs.state.ct.us**
 - **DRS TAX-FAX:** Call **860-297-5698** from the handset attached to your fax machine and select from the menu.
 - **Telephone:** Call **860-297-4753** (from anywhere), or **1-800-382-9463** (in-state) and select **Option 2** from a touch-tone phone.
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Paperless Filing Methods (fast, easy, free, and confidential):

- **For business returns:** Use ***Fast-File*** to electronically file sales and use taxes, business use tax, room occupancy tax, or withholding tax returns over the internet or telephone. Visit the DRS Web site at: **www.drs.state.ct.us** and click on ***Fast-File Program***.
 - **For resident income tax returns:** Use ***WebFile*** to file personal income tax returns over the Internet. Visit the DRS Web site at: **www.drs.state.ct.us** and click on ***File Returns On-Line***.
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